

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

MOHAMED A. HUSSEIN, an individual, and )  
HASSAN HIRSI, an individual, )  
Plaintiffs, )  
v. )  
AIR SERV CORPORATION, a foreign )  
corporation, )  
Defendant. )

Case No. 2:16-cv-278-RAJ

**SECOND AMENDED CLASS  
ACTION COMPLAINT**

Plaintiffs Mohamed A. Hussein and Hassan Hirsi (“Plaintiffs”), by their attorneys and on behalf of all others similarly situated (i.e., the “Class” as defined below), complain against Defendant and allege as follows:

**NATURE OF THE ACTION**

1. Plaintiff brings this class action individually and on behalf of the Class against Air Serv Corp. under Chapter 7.45, *et seq.*, of the City of SeaTac Municipal Code, the City’s minimum wage ordinance (the “Ordinance”), and for unjust enrichment, upon personal knowledge as to themselves and their own acts, and as to all other matters upon information and belief based on the investigation made by their attorneys.

2. The facts giving rise to this action involve the Defendant's violations of the Ordinance by failing to pay the prevailing minimum wage to hourly workers within the Class.

3. As a result of Defendant's wrongful conduct, the Plaintiff and the Class have been injured.

**PARTIES**

4. Plaintiff Mohamed A. Hussein is a natural person and at all times relevant hereto has been a resident of King County, Washington. From May 13, 2015, through May 27, 2015, Plaintiff worked for the Defendant as a warehouse clerk at an hourly wage rate less than \$15.00.

5. Plaintiff Hassan Hirsi is a natural person and at all times relevant hereto has been a resident of King County, Washington. From May 2015, through the present, Plaintiff Hirsi worked for the Defendant cleaning and maintaining sewer/septic and lavatory tanks on aircraft at an hourly wage rate less than \$15.00.

6. On information and belief, Air Serv Corp. is a subsidiary, affiliate, or business name of ABM Industries, Inc., having been acquired by ABM on or about October 8, 2012. Air Serv's corporate headquarters are located as 3399 Peachtree Road, NE, Suite 1500, Atlanta, GA 30326.

7. Defendant Air Serv Corp. describes itself in online publicity as follows:

Founded in 2002, Air Serv employs approximately 12,000 employees worldwide and is a leading provider of integrated facility management services for the world's leading airlines and freight companies at airports throughout the United States and United Kingdom. The rapidly growing company provides a range of janitorial, passenger, security services and transportation services to over 50 airports, including 27 of the top 40 markets in the U.S. and 12 of the top 30 airports worldwide, and is the global leader in wheelchair, baggage handling and skycap services. Air Serv generates annual revenues of approximately \$300 million.

1           8.     Air Serv, is the employer of the Plaintiff and the Class.

2                               **JURISDICTION AND VENUE**

3           9.     The defendant is located or is doing business in King County, Washington. The  
4 wrongful acts complained of here occurred in whole or in part in King County, Washington.  
5 This court had personal jurisdiction over the Defendant and subject matter jurisdiction over the  
6 matters related to this action.

7                               **SUBSTANTIVE ALLEGATIONS**

8           10.    Section 7.45.050 of the Ordinance requires certain employers within the City to  
9 pay a \$15 minimum wage to certain employees, subject to annual adjustments to be effective on  
10 January 1 of the next successive year. The law became effective on January 1, 2014.

11           11.    The minimum wage for 2014 was \$15 and for 2015 was \$15.25.

12           12.    The two categories of employers that are subject to the Ordinance are identified as  
13 “Hospitality Employers” and “Transportation Employers.”  
14

15           13.    A Hospitality Employer is defined as follows:

16                   *“Hospitality Employer”* means a person who operates within the  
17 City any Hotel that has one hundred (100) or more guest rooms  
18 and thirty (30) or more workers or who operates any institutional  
19 foodservice or retail operation employing ten (10) or more  
20 nonmanagerial, nonsupervisory employees. This shall include any  
21 person who employs others providing services for customers on  
22 the aforementioned premises, such as a temporary agency or  
23 subcontractor.

24           14.    A Transportation Employer is defined as:

25                   *“Transportation Employer”* means:

26                   1) A person, excluding a certificated air carrier performing  
services for itself, who:

a) operates or provides within the City any of the  
following: any curbside passenger check-in services;

baggage check services; wheelchair escort services;  
 baggage handling; cargo handling; rental luggage cart  
 services; aircraft interior cleaning; aircraft carpet cleaning;  
 aircraft washing and cleaning; aviation ground support  
 equipment washing and cleaning; aircraft water or lavatory  
 services; aircraft fueling; ground transportation  
 management; or any janitorial and custodial services,  
 facility maintenance services, security services, or customer  
 service performed in any facility where any of the services  
 listed in this paragraph are also performed; and  
 b) employs twenty-five (25) or more nonmanagerial,  
 nonsupervisory employees in the performance of that  
 service.

2) A transportation employer also includes any person who:

a) operates or provides rental car services utilizing or operating  
 a fleet of more than one hundred (100) cars; shuttle  
 transportation utilizing or operating a fleet of more than ten  
 (10) vans or buses; or parking lot management controlling  
 more than one hundred (100) parking spaces; and  
 b) employs twenty-five (25) or more nonmanagerial,  
 nonsupervisory employees in the performance of that  
 operation.

15. The two categories of employees that are subject to the Ordinance are  
 “Hospitality Workers” and “Transportation Workers.”

16. A Hospitality Worker is defined as:

“*Hospitality Worker*” means any nonmanagerial, nonsupervisory  
 individual employed by a Hospitality Employer.

17. A Transportation Worker is defined as:

“*Transportation Worker*” means any nonmanagerial,  
 nonsupervisory individual employed by a Transportation  
 Employer.

**FACTUAL ALLEGATIONS AS TO PLAINTIFFS**

18. Plaintiff Hussein was employed by Defendant Air Serv Corp. as a baggage handler from May 13, 2015, through May 27, 2015. During this period, he was paid an hourly wage rate of \$10.00 per hour.

19. Plaintiff Hirsi has worked for Defendant Air Serv Corp. cleaning and maintaining sewer/septic and lavatory tanks on aircraft from May 2014 to the present. During this time he has been paid at an hourly wage rate of \$10.50.

20. By failing to pay the prevailing minimum wage, Defendant acted unlawfully and proximately caused damages to the Plaintiffs in an amount to be proven at trial.

**CLASS ALLEGATIONS**

21. Plaintiffs bring this class action pursuant to Civil Rule 23 on behalf of himself and all members of the following Class:

All employees of the Defendant who have been either Hospitality Workers or Transportation Workers and who worked one or more hours within the City of SeaTac at any time during the time period from January 1, 2014, to the present, and who were paid less than the prevailing minimum wage prescribed by City of SeaTac Ordinance 7.45.050.

22. Plaintiffs reserve the right to amend or modify this Complaint and/or the Class definition after receiving Defendant's Answer and responses to meaningful discovery and/or in the motion for class certification.

23. Members of the Class are so numerous and geographically dispersed that joinder of all Class members is impracticable. The precise number and identities of Class members are unknown to Plaintiffs but should be obtainable through notice and discovery. Notice can be provided through a variety of means including publication, the cost of which is properly imposed on Defendant.

1           24.     Plaintiffs will fairly and adequately protect the interests of all Class members and  
2 has retained counsel competent and experienced in class and employment litigation and who has  
3 been repeatedly found to be adequate to represent the interests of class members in other  
4 complex class actions.

5           25.     Plaintiffs' claims are typical of the claims of the Class whose members sustained  
6 similar types of injury arising out of the conduct challenged in this action. The injuries flow  
7 from the common nucleus of operative facts detailed above.

8           26.     There is a well-defined community of interest in the common questions of law  
9 and/or fact alleged herein since the rights of each Class member were infringed or violated in a  
10 similar fashion based upon Defendant's wrongdoing or arise out of similar legal obligations.

11           27.     The common questions of law and fact detailed in this Complaint predominate  
12 over any questions solely affecting individual Class members. Defendant engaged in a common  
13 course of conduct giving rise to the legal rights sought to be enforced by Plaintiffs and the Class  
14 members. Individual questions, if any, pale by comparison to the numerous common questions  
15 that predominate.

16           28.     A class action is superior to other available methods for the fair and efficient  
17 adjudication of this controversy because joinder of all Class members is impracticable.  
18 Furthermore, the expense and burden of individual litigation make it impossible for the Class  
19 members to individually redress the wrongs done to them.

20           29.     The claims in this action are manageable on a class-wide basis and can be the  
21 subject of a class-wide plan for litigating and resolving these issues.  
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30. Defendant has also acted or has refused to act on grounds generally applicable to the Class, thereby making it appropriate to grant final declaratory and injunctive relief with respect to the Class as a whole.

### **CAUSES OF ACTION**

#### **Count 1 – Statutory Violations**

31. RCW 49.46.120 establishes Washington State’s minimum wage and provides for enforcement of more favorable minimum wages that may be established federal, state, or local law or ordinance.

32. Pursuant to RCW 49.46.090, “Any employer who pays any employee less than wages to which such employee is entitled under or by virtue of this chapter, shall be liable to such employee affected for the full amount of such wage rate, less any amount actually paid to such employee by the employer, and for costs and such reasonable attorney's fees as may be allowed by the court.”

33. Pursuant to RCW 49.52.050,

Any employer or officer, vice principal or agent of any employer, whether said employer be in private business or an elected public official, who

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(2) Wilfully and with intent to deprive the employee of any part of his or her wages, shall pay any employee a lower wage than the wage such employer is obligated to pay such employee by any statute, ordinance, or contract;

\*\*\*

Shall be guilty of a misdemeanor.

34. Pursuant to 49.52.070,

Any employer and any officer, vice principal or agent of any employer who shall violate any of the provisions of RCW 49.52.050 (1) and (2) shall be liable in a civil action by the aggrieved employee or his or her assignee to judgment for twice the amount of the wages unlawfully rebated or withheld by

1 way of exemplary damages, together with costs of suit and a reasonable sum  
2 for attorney's fees: PROVIDED, HOWEVER, That the benefits of this section  
3 shall not be available to any employee who have knowingly submitted to such  
4 violations.

35. Defendant has violated the foregoing statutes and are liable to the Plaintiffs and  
the Class for actual damages, double damages, and attorneys' fees and costs.

**Count 2 – Unjust Enrichment**

36. As described more fully above, the Defendant has been unjustly enriched by  
wrongfully withholding wages from the Class.

**Count 3 – Injunctive and Declaratory Relief**

37. As described more fully above, the Plaintiffs and the Class are entitled to a  
declaration of their right to be paid the prevailing minimum wage and an injunction prohibiting  
the Defendant from further violations of the Ordinance.

**PRAYER FOR RELIEF**

Based upon the above allegations, Plaintiffs request the following relief as appropriate for  
each cause of action:

A. An Order certifying that this action be maintained as a class action and appointing  
Plaintiffs as Representatives of the Class and their counsel as Class counsel;

B. For all actual, incidental, consequential, exemplary and/or statutory damages as  
provided for by law under the above causes of action that permit such relief including double  
damages under RCW 49.52.050 and .070, or other monies expended by Plaintiffs and members  
of the Class;

C. For preliminary and permanent injunctive relief prohibiting, restraining and  
enjoining Defendant from engaging in the conduct complained of herein;



- 1 D. For an award of attorneys' fees to the extent available under applicable law;  
2 E. For costs of suit herein incurred;  
3 F. For pre- and post-judgment interest; and/or  
4 G. For such other and further relief as this Court deems appropriate or which is  
5 allowed for in law or equity.

6 **DEMAND FOR JURY TRIAL**

7 Plaintiffs demand a trial by jury on all claims so triable as a matter of right, and for an  
8 advisory jury on all other causes of action.  
9

10 DATED this 16<sup>th</sup> day of March, 2016.

11  
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